IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

Bail Appl..No. 7821 of 2007(J)

CMP.6422/2007 of J.M.F.C.,VAIKOM
CRIME NO.735/07 OF VAIKOM POLICE STATION

.....

PETITIONER : 6TH ACCUSED:

JAYAKUMAR @ JAYAN, S/O.PRABHAKARAN,
VADAKKETHARA HOUSE, PANAMBUKAD, PANAMBUKAD
BHAGOM, PADINJATTINCHERI, PADINJAREMURI KARA,
NADUVILE VILLAGE.

BY ADV. SRI.T.A.UNNIKRISHNAN
SRI.P.K.SUNILKUMAR

RESPONDENTS: COMPLAINANT:

STATE OF KERALA REPRESENTED BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.7821 of 2007

Dated this the 19th day of December, 2007

ORDER

Application for regular bail. Petitioner is the 6th accused. He faces allegations under Section 376 I.P.C. He is alleged to have had sexual intercourse with a girl, aged much below the age of consent, the alleged rape having taken place on 22.11.07 and the girl having born only on 19.01.94 as per the records at the educational institution.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. Even going by the version of the defacto complainant, she is a girl who is used to sexual intercourse, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor opposes the application vehemently. The learned Public Prosecutor submits that the girl having not attained the age of consent, even the consent of the girl is not sufficient to help the petitioner to exclude him from the commission of offence or to demand a lenient view as the offence is one which shows depravity of the mind of the petitioner. The

petitioner had sexual intercourse with a girl aged less than 14 years. Whether with or without consent, a serious view is bound to be taken against the crime.

4. I find merit in the opposition by the learned Public Prosecutor. The petitioner was arrested only on 25.11.07. The alleged incident took place on 22.11.07. I am not satisfied that the petitioner deserves to be enlarged on bail at this early stage.

5. This application for regular bail is, in these circumstances, dismissed, but with the observation that the petitioner shall be at liberty to move this Court for bail again at a later stage of the investigation - not, at any rate, prior to 02.01.08. The investigators shall in the meantime make every endeavour to complete the investigation.

(R.BASANT, JUDGE)

rtr/-